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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C).11179/2015

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Judgment dated 16th December, 2015

NARENDER SINGH

..... Petitioner

Through : Mr. Ranjit Sharma, Advocate

versus

GNCT OF DELHI AND ORS.

..... Respondents

Through : Mr. Sharat Kapoor, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 09.09.2014 by which the OA filed by the petitioner was dismissed and the subsequent order dated 28.05.2015 passed by the Central Administrative Tribunal(hereinafter referred to for short as 'the Tribunal') by which the review petition filed by the petitioner was also dismissed.
2. The necessary facts to be noticed for the disposal of this writ petition are that the petitioner retired as Laboratory Assistant from G.G.Sr. Secondary School which is established under the Directorate of Education, Government of NCT of Delhi. The petitioner had approached the Tribunal seeking a direction to the respondents to re-employ him forthwith as a Laboratory Assistant on his retirement on 30.11.2013 and for release of his salary. This prayer of the petitioner was rejected by the Tribunal as the Laboratory Assistant was not covered by the Notification of the Directorate of Education dated 29.01.2007 which allows automatic re-employment to a retiring teacher upto PGT level. It is strongly urged before this Court that Laboratory Assistants are covered in the wider definition of a teacher. Reliance was placed by the learned counsel appearing for the petitioner on a decision rendered by a Single Judge of this Court in the case of *Nutan*

Gulati v. Director of Education and Ors., [W.P.(C). No.109/2013] decided on 09.07.2013. Counsel submits that in response to the query raised, a reply has been received that all Lab Assistants in a Senior Secondary School falls under Category-III.

3. Learned counsel for the respondent who enters appearance on an advance copy submits that in an identical matter another Division Bench of this Court in the case of ***Sat Narain v. Directorate of Education & Ors.***, [WP(C) No.5374/2013 upheld the order of the Tribunal and held that the Lab Assistant is not covered under the teaching staff.
4. We have heard the learned counsel for the parties.
5. The short question which arises for consideration is whether a Laboratory Assistants would be covered under the definition of a Teacher and thus, would be entitled to the benefit of the Notification dated 29.01.2007, which allows automatic reemployment to all retiring Teachers upto to PGT level subject to fitness and vigilance clearance till they attain the age of 62 years.
6. The post-wise distribution of sanctioned posts placed on record by the respondents before the Tribunal would show that the Laboratory Assistants falls in the category of a non-teaching staff.

“Postwise Distribution of Sanctioned Posts

Teaching Staff

Postgroup	Post	Allocated
DRG_TE	Drawing Teacher	1
Lecturer-COMP	Lecturer Computer Science	1
Lecturer	Lecturer Economics	1
Lecturer	Lecturer English	1
Lecturer	Lecturer Hindi	1
Lecturer	Lecturer Home Science	1
Lecturer	Lecturer Political Science	1
Lecturer	Lecturer Sanskrit	1

Librarian	Librarian	1
Music	Music Teacher	1
PET	PET	1
PRIN	Principal	1
SplEdnTr	Special Education Teacher	1
TGT-COMP	TGT Computer Science	2
TGT	TGT English	2
TGT	TGT Hindi	2
DOMSC	TGT Home Science	1
TGT	TGT Math	2
TGT	TGT Natural Science	2
TGT	TGT Punjabi	1
TGT	TGT Sanskrit	2
TGT	TGT Social Science	2
VPRIN	Vice Principal	1
WET	Work Experience Teacher	1
YOGA	YOGA Teacher	1

Non Teaching Staff

Postgroup	Post	Allocated
Class IV	Peon full time	1
Class IV	Waterman Full Time	1
Head Clerk	Grade-II(DASS)/Head Clerk	1
Lab_Asst	Lab Assistant	2
Supdt Grade-I	(DASS/Superintendent	1
UDC Grade-III	(DASS/UDC	1”

7. The judgment in the case of *Nutan Gulati*(supra), in our view, is not applicable to the facts of the present case. In the aforesaid matter, the Court had taken into consideration the Circular issued by the Director of Education, as per which the Librarians in the Government have been declared as teaching post for all purposes and the Librarians were to get benefit which was applicable to the Teachers category prospectively. However, no such circular has been placed by the petitioner on record.

8. In the case of *Sat Narain* (supra), an identical question came up for consideration before a Division Bench of this Court. Paras 2 to 5 read as under:

- “2. Relying upon the said Notification as the foundation of his claim, conscious of the fact that the petitioner was a Laboratory Assistant and unless he was equated as a teacher claim could not be premised, he relied upon a Notification dated January 29, 2007, and a Circular issued by the Government of NCT of Delhi as per which a special pay was being paid to the Laboratory Assistants, Library Assistants, Librarians and Teachers.
3. Suffice would it be to state that if the special allowance is paid to different categories of employees that would not mean that for all purposes they have to be treated as species of the same genus.
4. Teachers are the ones who teach the three R's in a class room. Laboratory Assistants, as disclosed in the reply filed to the Original Application, work in the Laboratories : setting up apparatus, mixing solutions and salts for students to experiment on.
5. The view taken by the Central Administrative Tribunal as per the impugned decision dated May 30, 2013 is that a Laboratory Assistant cannot be treated as a teacher and thus would not be entitled to the benefit of the Notification dated January 29, 2007; and we agree.”

9. The Tribunal in this case has examined all the submission made by the counsel for the parties and, in our view, reached a correct decision. Even otherwise, we see no reason to take a view different from *Sat Narain* (supra).

10. Accordingly, the writ petition stands dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 16, 2015/pst